IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

and
THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT PETITION NO : 12680 of 2005

Between:

K. Gavarraju, S/o. Nageswara Rao, D.No. 51-13-27, Rajendranagar, Rajamundry, East Godavari District.

..... PETITIONER

AND

1 The Station House Officer, Ramachandrapuram Police Station, East Godavari District.
2 The Superintendent of Police, East Godavari District at Kakinada.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an Order, direction, or a writ, more particularly one in the nature of Writ of Habeas Corpus directing the Respondents herein to produce the brother of the petitioner herein, Viz., Chinna Rao, Tailor, Anandanagar, Rajamundry, East Godavari District, before this Hon'ble Court, who is arrested and detained by the Ramachandrapuram Police since 11-6-2005 at about 10.00 A.M. apprehending danger to his life and set him at liberty forthwith and to pass such other or further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case

Counsel for the Petitioner: PETITION

Counsel for the Respondent Nos.1 & 2: ADDL.ADVOCATE GENERAL

The Court made the following :

JUDGMENT: (Per the Hon'ble Smt Justice T.Meena Kumari)

This is a taken up case on the Telegram issued by the petitioner seeking a direction to the respondents to produce his brother viz., Chinna Rao before this Court, who was arrested and detained by the Ramachandra puram Police from 11.06.2005 at about 10-00 A.M and set him at liberty forthwith.

Conterveting the allegations made in the writ petition, the 1st respondent filed counter affidavit wherein it has been stated that basing on the complaint by one Padmavathi, who is wife of the alleged Chinna Rao, a case in crime No.46 of 2005 under Section 498-A read with Section 34 IPC was registered. The alleged detenue was arrested on 11.6.2005 at 12.30 P.M. at Rajahmundry and produced before the learned Additional Judicial First Class Magistrate, Ramachandrapuram on 13.6.2005. In view of the anticipatory bail granted in favour of the detenue in Crl.M.P.No.487 of 2005 in Cr.No.46 of 2005 and considering the material facts, the learned Magistrate granted regular bail in favour of the alleged detenue and he was released on 15.06.2005.

During pendency of the writ petition, it is brought to the notice of the Bench consisting of HACJ & GC J, that the Magistrate directed the police to produce the detenue on 13.06.2006 as 12.06.2005 happened to be a Sunday and therefore an explanation from the learned Magistrate is called for. Pursuant to the same, the learned Magistrate has submitted his explanation as per Rule 4 of Criminal Rules of Practice and circular orders, 1990 of this Court, he directed the police to produce the detenue on the immediate next working day i.e., 13.06.2005. A perusal of the report further goes to show that no infracture is provided at the residence of the judicial officers by the Government to pass necessary orders at the residence of judicial officers.

We are not satisfied with the explanation submitted by the learned Magistrate.

Therefore, the Registrar (Judicial) is directed to take necessary action in this regard.

Now coming to the facts on hand, it is submitted across the Bar by the learned Additional Advocate General that the alleged detenue was arrested in connection with the above said crime registered on the report given by his wife and subsequently he was released on bail on 15.06.2005.

In view of the submission made by the learned Additional Advocate General and in view of the averments made in the counter to the effect that the alleged detenue was arrested and was already released on bail on 15.6.2005, We are of the view that no further orders are necessary in this writ petition and accordingly, the same is liable to be dismissed.

The writ petition is accordingly dismissed. However, the Registrar (Judicial) is directed to take action against the learned Magistrate as indicated above.

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T.MEENA KUMARI, J

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P.LAKSHMANA REDDY, J

13.07.2005

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To

1 The Station House Officer, Ramachandrapuram Police Station,
East Godavari District.
2 The Superintendent of Police, East Godavari District at Kakinada.

3 Two CCs to Additional Advocate General, High Court buildings, Hyderabad.

4 2 CD copies

5. Copy to the Registrar (Judicial)

6.The Principal Junior Civil Judge FAC Additional,Judicial First Class Magistrate, Ramachandrapuram, E.G.Dist.

*Form-NIC-OGS/WP{**RLD**}*